84-1968
NO.

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CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1984

LOUIS J. ZUGER,

APPELLANT,

V.

UNITED STATES OF AMERICA,

Appellee.

==========

ON DIRECT APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT PURSUANT TO ART. III, U.S. CONSTITUTION

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JURISDICTIONAL STATEMENT

==========

LOUIS J. ZUGER
POLITICAL PRISONER
#08133-014
PEMBROKE STATION CAMP
DANBURY, CT 06810

JUNE 18, 1985

49 pp 1

QUESTIONS PRESENTED

(1) Has the district court been granted jurisdiction to entertain Constitutional defenses in a "statutory" criminal case?

(2) Has the U.S. Court of Appeals for the Second Circuit been granted jurisdiction to entertain statutory appeals based upon Constitutional defenses, in a "statutory" criminal case?

(3) Has the Supreme Court of the United States been denied appellate jurisdiction to hear Constitutional appeals in cases where Constitutional defenses were raised in a statutory "criminal" case?

(4) Is Title 26 of the United States Code law?

(5) Is the Internal Revenue Service a part of the United States Government?

(6) Is there a valid statute which enabled the lower courts to imprison the

appellant?

(7) Is the appellant lawfully in the custody of the Attorney General of the United States?

(8) Has the appellant been denied the effective assistance of counsel?

(9) Is the appellant unlawfully in the custody of the Attorney General,in violation of Title 18, U.S.C., §4001?

(10) Did the district court err in ordering the imprisonment of the appellant before his appeals were exhausted?

(11) By what lawful authority does the United States of America presume to exercise authority over a sovereign, unenfranchised citizen?

(12) By what lawful authority has the United States of America presumed to infringe upon the God-given, unalienable, and Constitutionally protected rights of the appellant?

(13) If the chain of the appeals process (i.e. from trial court to appeals court to the Supreme Court) has been broken, by what lawful authority was it broken?

(14) If statute law has been elevated above God's Law and Constitutional Law in supremacy, is there any longer any Remedy At Law?

(15) Have the national courts lost sight of their purpose (i.e. to support the "Laws of Nature and of Nature's God" and the Constitution of the United States of America), and in the process, lost the concept of justice, righteousness, and love, under God?

(16) Why is President Reagan not in jail, since he recently proclaimed that the "income tax" system is Un-American, which is exactly what the appellant is in jail for maintaining?

LIST OF ALL PARTIES**

THE UNITED STATES OF AMERICA,
PRESIDENT RONALD REAGAN,
ATTORNEY GENERAL RICHARD MEESE,
U.S. ATTORNEY ALAN H. NEVAS,
U.S.D. JUDGE PETER C. DORSEY,
VARIOUS JUDGES OF THE SECOND
CIRCUIT COURT OF APPEALS,
VARIOUS AGENTS OF THE INTERNAL
REVENUE SERVICE,
VARIOUS ASSISTANT U.S. ATTORNEYS.

**NOTE: The appellant is (unlawfully) imprisoned and does not have access to his files. It is impossible for him to make a complete and proper listing of each and every party to this appeal, at this time.

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IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1984

LOUIS J. ZUGER,

APPELLANT,

V.

UNITED STATES OF AMERICA,

Appellee.

ON DIRECT APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT PURSUANT TO ART. III, U.S. CONSTITUTION.

OPINIONS BELOW

There was no opinion rendered by the U.S. Court of Appeals for the Second Circuit in this case, which bears the docket no. 85-1065 in the Court of Appeals 2d. The case is entitled U.S.A. v. Zuger, with Zuger being the appellant.

The circuit court summarily dismissed this appeal without hearing or opinion, on May 1, 1985.

Because of a complete denial of the appellant's due process rights at the appellate level, the appellant filed a Notice of Appeal to the Supreme Court on May 20, 1985. (A-1).

The "order" on appeal herein is from the U.S. District Court for the District of Connecticut, U.S.A. v. Zuger, Criminal No. N-84-21, dated February 19, 1985, as signed by U.S.D. Judge PETER C. DORSEY.(A-2).

Said "order" granted "Government's Motion To Set Surrender Date" in Want of Jurisdiction, and in a case which has still not been heard on appeal in this Court.

JURISDICTIONAL GROUNDS IN THIS COURT

Appellate jurisdiction is granted to this Court in all controversies in which the United States is a party, as per Art. III, Constitution of U.S.A.

That the United States is a de facto party to this controversy is factually proven because:

(1) The appellant is in the de facto custody of the Attorney General of the United States.

(2) The appellant was placed in the de facto custody of the Attorney General by the President of the United States.

(3) The appellant is either de jure under the protections of the Constitution of the United States of America, and/or,

(4) The appellant is de jure under the "Laws of Nature and of Nature's God".

(5) The appellant has been denied the protections of the Constitution of the United States of America by the lower courts of the United States, and by the President of the United States.

(6) The appellant has been denied his unalienable rights under the "Laws of

Nature and of Nature's God", by agents of the United States.

(7) The United States is a party to this controversy.

(8) The Supreme Court of the United States has, by Law (Art. III, Constitution of U.S.A.), appellate jurisdiction to hear this appeal.

(9) The Supreme Court of the United States must, by LAW (Art. III, Constitution of U.S.A.), hear this appeal.

CONSTITUTIONAL PROVISIONS INVOLVED

"All Legislative Powers herein granted shall be vested in a Congress of the United States,..." Art. I, Section 1, Constitution of U.S.A.

Appellant factually states that Title 26, U.S. Code has never been enacted into law by Congress, and that Title 26, U.S. Code is unconstitutional on its face,

because it violates Art. I, Sec. 1, Constitution of U.S.A., as well as the "Laws of Nature and of Nature's God".

Title 26, U.S.C. a/k/a Internal Revenue Title is not Law, and does not apply to the appellant in any way, nor can it be applied to the appellant against his express wishes, and those of his God.

***

Art. I, Sec. 8, Cl. 1, Const. U.S.A. mandates that:

> "The Congress shall have the Power To lay and collect Taxes, Duties, imposts and Excises,..."

The Power to Collect Taxes rests exclusively with the Congress. The I.R.S. makes no pretense at being a part of the Congress. "We The People" never granted Congress the power to delegate any of its duty or responsibility to Collect Taxes to an unlawful, outlaw, and ungodly

"agency" such as the I.R.S.

***

Art. I, Sec. 9, Cl. 4, Const. U.S.A.

> "No capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken."

The I.R.S. has conspired to have the appellant unlawfully imprisoned for his refusal to permit a direct tax without apportionment to be imposed upon him.

***

THE 16TH AMENDMENT

The 16th Amendment, which has not been lawfully ratified, created no new form of tax, according to the Supreme Court. Yet said 16th Amendment is the alleged authority under which the I.R.S. operates to unlawfully collect direct taxes. The 16th Amendment has never been lawfully ratified, and appellant has copies of certi-

fied documents to prove this.

***

AMENDMENT I

> "Congress shall make no law... abridging the freedom of speech, or of the press;...and to petition the Government for a redress of grievances."

Appellant factually states that his freedom of speech and his right to petition for redress of grievances has been denied; under God, and the Constitution of the United States of America.

AMENDMENT IV

> "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated,..."

Appellant factually states that his Fourth Amendment rights were violated in order to begin the fraudulent proceedings herein appealed.

***

AMENDMENT V

"No person shall be...deprived of life, liberty, or property, without due process of law;..."

Appellant factually states that ALL proceedings held in the lower courts were in Want of Jurisdiction, a total abuse and denial of due process of law; under God, and the Constitution of the United States of America.

***

AMENDMENT VI

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed,...and to have the Assistance of Counsel for his defence."

Appellant factually states that there is no federal criminal jurisdiction over the appellant; and factually states that the only Constitutionally lawful criminal

jurisdiction of the United States over a sovereign citizen is for Treason, Counterfeiting, and Piracy, none of which the appellant has been accused of doing. Any and all allegations of criminal activity would have to have been brought before a State jury, in a State court, and appellant would have to have had the Assistance of Counsel for his defense, all of which were denied to appellant; under God, and the Constitution of the United States.

***

AMENDMENT XIV

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." (emphasis added) Amendment XIV, Sec. 1.

Appellant factually states that there was no evidence submitted in the lower courts to prove that the appellant is

subject to the jurisdiction of the United States. The United States ASSUMED that the appellant was "born or naturalized" in the United States; that the appellant was subject to that jurisdiction, and proceeded accordingly. That the presumption (assumption) was false is evidenced in the papers on appeal.

However, assuming arguendo that the appellant was "subject to the jurisdiction" of the United States, then he would have possessed ALL of the protections afforded him by the Constitution of the United States, including ALL Amendments thereto. The papers on appeal are evidence that the appellant was denied Constitutional rights, by the United States.

***

ARTICLE FIRST, SECTION 10,
CONSTITUTION OF THE STATE OF CONNECTICUT

All courts shall be open, and every

> person, for an injury done to him in his person, property or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay.

Appellant factually states that right and justice have not been administered by the lower courts; that appellant's reputation has been irreparably harmed; and that whatever justice there is, is in fact for sale to the highest bidder.

***

ARTICLE SECOND
CONSTITUTION OF THE STATE OF CONNECTICUT

> The powers of government shall be divided into three distinct departments, and each of them confided to a separate magistracy, to wit, those which are legislative, to one; those which are executive, to another; and those which are judicial, to another.

Appellant factually states that the separation of powers mandated in both the State and National Constitutions has been breached by the agents of the appellee, each of whom is a State licensed and en-

franchised attorney, and as such is a Commissioner of the Superior Court of the State of Connecticut. State licensed members of the State Courts are constitutionally barred from federal employment of any kind. Appellant is not only asserting that fact herein, he is also a plaintiff in two (2) lawsuits instituted in the State courts addressing this point of conflict of interest. The appellee's agents have admitted said conflict of interest in both suits. The trial judge, as well as certain circuit judges, should have disqualified themselves from hearing this matter.

"THE LAWS OF NATURE AND OF NATURE'S GOD"

Reference is made to the "Laws of Nature and of Nature's God" in the Declaration of Independence (1776), which is

the first Organic Law Of The United States, according to its listing at pages xxxv to xxxvii preceding Title I, U.S.C.

At paragraph 2 of said Declaration, we find the following:

> "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,-..."

The appellant, by Christian birth, heritage, and faith, is a sovereign individual subject only to the "Laws of Nature and of Nature's God". His rights to Life, Liberty, and the Pursuit of Happiness (Property) are unalienable by man, or by man-made government, provided he does not transgress upon the "Laws of Nature and of Nature's God".

There is no evidence in the papers on

appeal to indicate that the appellant has transgressed against any of the "Laws of Nature and of Nature's God".

The appellant has not been accused or convicted of any violation of the "Laws of Nature and of Nature's God".

The appellant is unlawfully imprisoned in violation of the "Laws of Nature and of Nature's God", and his unalienable rights to Life, Liberty, and the Pursuit of Happiness have been unlawfully infringed.

STATEMENT OF THE CASE

This "criminal" case was instituted by "information" in the U.S. District Court for the District of Connecticut as U.S.A. v.Zuger, Criminal No. N-84-21.

The information, filed March 23, 1984, accused the appellant of two counts "In violation of Section 7203, Internal Revenue

Code; Title 26, United States Code, Section 7203."

In instituting "criminal" proceedings against the appellant, the agents of the United States made at least four (4) erroneous presumptions, namely:

(1) That the appellant was subject to the jurisdiction of the United States, and,

(2) That the Internal Revenue Code a/k/a Title 26, United States Code, was a Law of the United States.

(3) That the appellant was subject to the Internal Revenue Code a/k/a Title 26, United States Code.

(4) That the Constitution of the United States of America did not apply to the appellant.

Those four (4) erroneous presumptions were never addressed or settled by the lower courts. Instead, the awesome power of the United States was brought to bear upon

the appellant to force him to submit to, and accept those errors.

On April 2, 1984, the appellant answered the information by filing a Special Appearance in which he entered the following plea: "NO JURISDICTION".

The reasons for the NO JURISDICTION plea contained in that Special Appearance are:

COUNT 1. Information is Fraudulent.

COUNT 2. Title 26 USC is not Law. (Preface pages of U.S.Code)

COUNT 3. Title 26 USC is not Law. (Library of Congress memo)

COUNT 4. Title 26 USC is Unconstitutional. (Art. I, Section 1, U.S. Constitution)

COUNT 5. Title 26 USC is not enforceable. (void for vagueness)

COUNT 6. The Internal Revenue Code is not Law.

COUNT 7. No lawful Plaintiff.

(No U.S. law violated)

COUNT 8. No lawful Plaintiff.

(I.R.S. a private corp.)

COUNT 9. No lawful Plaintiff.

(I.R.S. not part of Congress)

COUNT 10. No qualified judge.

(28 U.S.C. §455)

COUNT 11. The Information is a fraud.

COUNT 12. Equity jurisdiction denied.

(Zuger does not consent).

The Special Appearance was ignored, and the appellant arrested and brought before U.S. Magistrate THOMAS P. SMITH, who entered a plea of "not guilty" for the appellant. Since SMITH was not the attorney for the appellant, and did not have power of attorney from the appellant; and since the Special Appearance was before him, the "not guilty" plea was a dismissal of all charges against the appellant.

Even though Magistrate SMITH had entered an order of "not guilty", the case was processed, brought to trial, etc.

The appellant filed for Interlocutory Appeal (C.A. 2d, 84-1213), and for stays which were denied. The railroad job continued simultaneously in the district and circuit courts, ultimately ending in "conviction".

It is interesting to note that both courts were able to operate on the same case at the same time, and neither would stay proceedings, nor overtly recognize the function of the other. In effect, both the circuit and district courts were operating as one court.

What is especially significant in the proceedings is the presumption that the appellant is subject to the jurisdiction of the United States. No attempt was ever made to establish THAT the appellant was subject

to the jurisdiction of the United States.

However, IF the appellant was subject to the jurisdiction of the United States, THEN he was entitled to the FULL PROTECTION of the Constitution of the United States of America, and ALL Amendments thereto. NONE of the appellant's Constitutional defenses were ever addressed, considered, or settled.

Finally, without jurisdiction having been established, and with the appeals process incomplete, Judge DORSEY ordered the imprisonment of the appellant on February 19, 1985 (A-2), which order was executed on February 22, 1985. The appellant is imprisoned at FCI, Danbury, and it is this order which is on appeal herein. The circuit court dismissed the appeal on May 1, 1985 without hearing or opinion. Obviously, the plan and purpose of said order was, and is, to deny appeal and other rights of the

appellant.

REASONS WHY THE QUESTIONS PRESENTED REQUIRE PLENARY CONSIDERATION WITH BRIEFS ON THE MERITS AND ORAL ARGUMENT FOR THEIR RESOLUTION.

1. U.S.D. Judge PETER C. DORSEY had in fact rendered a landmark decision in this case, in which he ruled that his court has jurisdiction, whether there is a law, or whether there is No Law. Judge DORSEY has created a new jurisdiction for the district courts, namely, that of NO LAW jurisdiction.(A-3 to A-12).

The circuit court has, by dismissing the appeals, affirmed that landmark decision. In the process, the lower courts have combined to legislate Title 26, U.S. Code; Internal Revenue Code of 1954, as amended, into law. This "judicial legislation" is contrary to the will and intent of the Congress, and the facts surrounding

said legislation. For instance:

(A) That Title 26, U.S.C is not law, is clearly proclaimed in the U.S. Code; at the preface pages over the years; and at the notes following Title 1, U.S.C. §204.

(B) That the Internal Revenue Code and Title 26, U.S.C. are IDENTICAL are evidenced in the notes following Title 1, U.S.C., §204.

(C) The Internal Revenue Code of 1954, Pub. L. No. 591, ch. 736, 68a Stat. 1 (codified as amended in 26 U.S.C.)...[was] passed as [a] simple resolution and enacted as public law. The only way a Law can be made by Congress, requires it to originate as a BILL. (See Art. 1, Sec. 7, Cl. 1 & 2, Constitution of the U.S.A.).

(D) By whatever name or designation it may be called, the Internal Revenue Code of 1954, as amended, is not now and never has been LAW.

(E) Judge DORSEY's ruling is contrary to the law and the facts. It is this ruling, which was blindly given force and effect by the circuit court, that has resulted in the imprisonment of the appellant for violating a NON-LAW, which is absurd.

No doubt, these important facts are what prompted President Reagan to recently proclaim that the income tax system is Un-American.

It is time for this Court to address this matter, in the interests of this Nation, as well as the appellant.

2. For whatever reason, or for no reason, the lower courts have ignored the Constitutional defenses of the appellant, in all of the proceedings, as if the Constitution of the United States of America does not exist. From a technical

point of view, they may be correct IF they considered the appellant a FREEMAN subject only to the "Laws of Nature and of Nature's God". In that case the Constitution would not properly apply to the appellant. However, if that were their view, THEN the appellant was not, and is not, subject to the jurisdiction of the United States, and the courts would have thrown out the "information" for Want of Jurisdiction, which they failed to do.

3. If the lower courts view the appellant as subject to the jurisdiction of the United States, which they seem to have done, THEN the appellant WAS, and IS, entitled to ALL of the rights, privileges, and immunities set forth in the Constitution of the United States of America, which they failed to provide.

CATCH-22: The United States could not lawfully imprison the appellant regardless of which viewpoint it adopted.

4. It is clear that some confusion has been created as to the jurisdiction and functions of the lower courts. It is also clear that the appeals process has been perverted and/or the chain of appeals broken.

It is not the duty and responsibility of the appellant to straighten out the mess the courts are in today. This is something that the courts themselves have to do, or else lose all credibility and confidence.

The appellant has raised three specific questions regarding this matter, at the beginning of this jurisdictional statement. They are Questions Presented #1, 2, and 3. This Court has the responsibility to answer

those questions; for the good of the judicial system; for the good of the Nation; and for the good of the appellant.

5. Title 18, U.S.C. §4001 prohibits any citizen from being detained or imprisoned by the United States, except pursuant to an Act of Congress. The United States has acted as if the appellant was a citizen of the United States, throughout the proceedings. Neither Title 26, U.S.C., nor the Internal Revenue Code of 1954 are Acts of Congress; nor do they authorize criminal jurisdiction of the district courts. The appellant is unlawfully imprisoned by the United States, and will remain so unless this Court acts to free him.

The issues raised are of major import; have never before been addressed; are within the appellate jurisdiction of

this Court; and must, by Law (Art. III, Constitution of U.S.A.), be addressed by this Court.

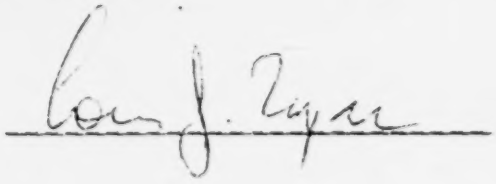
Dated: June 17, 1985

LOUIS J. ZUGER
P.O.W. #08133-014
PEMBROKE STATION CAMP
DANBURY, CT 06810

CERTIFICATE OF SERVICE

The appellant certifies that he has served a copy of the above Jurisdictional Statement upon the Solicitor General, by mailing a copy of same, with postage prepaid, on the date of docketing, to:

SOLICITOR GENERAL
U.S. DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20530



APPENDIX

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Criminal Docket No. 85-1065

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

LOUIS J. ZUGER,
Defendant-Appellant.

NOTICE OF APPEAL

The appellant, LOUIS J. ZUGER, hereby gives notice that he will take a direct appeal to the Supreme Court of the United States, from the summary dismissal of his appeal on May 1, 1985, as well as from the events leading up to his present unlawful incarceration, pursuant to Art. III, U.S. Constitution.

Dated: May 10, 1985

/s/
LOUIS J. ZUGER
POLITICAL PRISONER
#08133-014
PEMBROKE STATION CAMP
DANBURY, CT 06810

File Stamp of the court:
RECEIVED
1985 MAY 20 am 10:49
U.S. COURT OF APPEALS
SECOND CIRCUIT

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA :

V. : CRIMINAL NO.
N-84-21 (PCD)

LOUIS J. ZUGER :

GOVERNMENT'S MOTION TO SET SURRENDER DATE

The United States of America respectfully moves this Court to set a date of February 22, 1985 for the surrender of the defendant. In support of this motion the Government represents as follows:

1. The defendant has been released pursuant to a $50,000 (10% cash deposit) bond from the date of disposition, September 4, 1984, pending appeal;

2. On January 30, 1985, the United States Court of Appeals for the Second Circuit affirmed the defendant's conviction;

3. The United States Marshal for the District of Connecticut has indicated that Friday, February 22, would be a convenient date for the defendant's surrender.

WHEREFORE, the Government respectfully requests that this Court set a date for February 22, 1985, at the United States Marshal's Office, New Haven, Connecticut for the defendant's surrender.

Respectfully submitted,
ALAN H. NEVAS, U.S. ATTORNEY

/S/
BY: MICHAEL HARTMERE
ASSISTANT UNITED STATES ATTORNEY

February 19, 1985: SO ORDERED

/s/
Peter C. Dorsey, U.S.D.J.

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA	:	
-vs-	:	Civil No. N-84-21
LOUIS J. ZUGER	:	(PCD)

RULING ON PENDING MOTIONS

Defendant is charged in two counts with willful and knowing failure to file income tax returns for the tax years of 1977 and 1978, in violation of Section 7203 of the Internal Revenue Code, 26 U.S.C. §7203. The law as in effect during the tax years in question provided that, upon conviction for this misdemeanor offense, a person shall be fined not more than $10,000 or imprisoned not more than one year, or both, and shall be responsible for the costs of prosecution. At a bond hearing held May 24, 1984, after this matter was reassigned to the undersigned, the court determined to treat three documents filed by the pro se

defendant as motions to dismiss directed to the jurisdiction and authority of the court to act in this matter. Defendant was given until June 11, 1984, to secure counsel, if desired, and file any further materials relating to the jurisdictional infirmities alleged in the three pleadings. As no counsel has appeared and nothing further has been filed by defendant, the motions are ripe for resolution.

Under date of April 1, 1984, defendant filed a document entitled "Special Appearance" which, under the general head of "No Jurisdiction," asserted thirteen grounds or "counts" for his claim that the information must be dismissed. The first seven counts are variations on the theme that, inasmuch as Title 26 - and for that matter in excess of half the United States Code - has not been enacted into positive law under 1 U.S.C. §204(a), it is not law

at all, thus rendering null and void any proceedings or prosecution thereunder. This abstruse contention wholly misconstrues the nature of legislation and the significance of the codification of law.

Defendant asserts that, unless and until Congress enacts a title of the United States Code into positive law, the title and all provisions contained therein are of no legal force. A necessary corollary to this transparently semantic argument is that a majority vote of the respective houses of Congress on a resolution reported out by the appropriate committee or committees does not make law. Such a notion, anathema to any rational legislative process, is totally inconsistent with the process contemplated by the constitution. Instead, a piece of legislation takes effect according to its terms when Congress properly addresses a bill and

the President either signs it, fails to object within ten days, or vetoes it but Congress overrides the veto. This, and only this, is legislation or statutory law.

Codification of existing legislation is an entirely different, subsequent and largely ministerial matter, directed towards the proper and commendable goal of collecting the multitude of congressional enactments in force and organinzing them in a readily-accessible manner. The "United States Code" is, of course, such a codification. The Acts of Congress do not take effect or gain force by virtue of their codification into the United States Code; rather, they are simply organized in a comprehensive way under the rubric of appropriate titles, for ready reference.

Nor does the enactment into "positive" law of a title of the United States Code

make or unmake the efficacy or force of a duly-enacted law. Instead, congressional enactment of a title of the United States Code, as such, into positive law is relevant only to the question of whether the contents of that Code itself, as such, are to be deemed to constitute full and faithful reflections of the law in force as Congress has enacted it. Where a title has not undergone the mystical-sounding ritual of "enactment into positive law," recourse to the numerous volumes of the statutes at large or other records of congressional proceedings is available in case a question arises as to the accuracy of the version of the law as reflected in the Code vis-a-vis the law as enacted by Congress. Where a title has, however, been enacted into positive law, the Code title itself is deemed to constitute conclusive evidence of the law; recourse to other sources is

unnecessary and precluded.

Thus, a codification is evidence of law as Congress enacted it. Enactment into positive law only affects the weight of that evidence. Congress has set all of this forth for a law now codified in language somewhat more technical that the above at 1 U.S.C. §204(a). Under this section, and as plainly explained in defendant's own Exhibit 5 appended to his motion, whenever a title, as such, is enacted into positive law, the text of that title constitutes legal evidence of the laws contained in that title. In construing a provision of such title, a court may neither permit nor require proof of the underlying original statutes. Where, however, a title, as such, has not been enacted into positive law, then the title is only prima facie or re-buttable evidence of the law. If construct- ion of a provision to such a

title is necessary, recourse may be had to the original statutes themselves. 1 U.S.C. §204(a). See United States v. Welden, 377 U.S. 95 (1964).

Thus, the failure of Congress to enact a title as such and in such form into positive law - the criteria for such a determination being those detailed in defendant's Exhibit 6 - in no way impugns the validity, effect, enforceability or constitutionality of the laws as contained and set forth in the title. Defendant's argument that Title 26 is without legal force is therefore specious. The remaining assertions in defendant's April 2 pleading need not detain the court. While the constitution does not, as defendant notes, explicitly refer to nor create an Internal Revenue Service, that fact cannot be said to preclude congressional delegation of tax-collecting authority to an executive

agency, such as the IRS. There is nothing improper in the prosecution of this action.

The fact that the undersigned's salary is paid by the United States neither dictates nor suggests the need for recusal under 28 U.S.C. §455(a)("Any justice, judge or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned"). The court has no doubt concerning its impartiality and finds no reasonable person with knowledge of the facts would come to any different conclusion. Disqualification on such a basis would not be restricted to any one judge, but would mean that no federal judge could preside over the trial of a federal crime. If such claim were not dismissed as farsical, on its face, it would further violate the time-honored Rule of necessity, United States v. Will, 449 U.S. 200 (1980),

whereby a judge is not disqualified to try a case because of personal interest if there is no other judge available to hear and decide the issue. Finally, defendant's comments regarding lack of equitable jurisdiction appear misdirected in this criminal prosecution. To the extent the "Special Appearance" filed April 18, 1984, purports to challenge the jurisdiction of this court, it is denied.

Both the "Special Appearance" filed April 18, 1984, and the "Stay and Order" filed April 23, 1984, are based on the pendency of the challenge decided above. Deemed also to be motions, both are denied as moot.

Defendant's assumption in his "Notice," filed June 13, 1984, that all proceedings are stayed pending the resolution of his appeal, is quite erroneous. Effective this date with the issuance of this order, the

case shall proceed. Jury selection is scheduled as per previously issued calendar for June 26, 1984, at the Hartford seat of court. For defendant's convenience, the status conference originally scheduled for June 28, 1984, shall be held at 8:30 a.m. on June 26, 1984, the date of jury selection. Trial, on a date to be confirmed either by subsequent calendar or on the day of jury selection, shall commence shortly thereafter.

SO ORDERED.

Dated at Hartford, Connecticut, this 18th day of June, 1984.

/s/
Peter C. Dorsey
United States District Judge